

Dear Honorable Leader:

The U.S. Environmental Protection Agency (EPA)'s Office of International and Tribal Affairs, American Indian Environmental Office is initiating consultation and coordination with federally recognized tribes on allocating funding for the Multipurpose Grant (MPG) program to tribes. The MPG program began under the FY2016 Consolidated Appropriations act (P.L. 114-113) and was continued in FY18 (P.L. 115-141) and FY19 (P.L. 116-6)^[1]. EPA is consulting on our action to allocate both FY18 and FY19 MPG appropriations as a single action for a combined total amount of \$3,062,100 to tribes. These flexible grants support efforts to implement mandatory statutory duties delegated by EPA under pertinent environmental laws. Your tribe has been identified as eligible for MPG funding. The MPG program will fund only those tribes who have been delegated federal ***regulatory authority*** through the treatment in a similar manner to a state (TAS) provisions found in federal environmental statutes. A full list of the tribes eligible for MPG funding is enclosed.

Specifically, this consultation is to gather input on the enclosed: **US Environmental Protections Agency Multipurpose Grant Guidance for Tribes**. EPA's tribal consultation period is **Monday, June 17 through Friday, July 12, 2019**. EPA invites you and your designated consultation representative(s) to participate in this process.

The enclosed **Consultation Plan on the Multipurpose Grant Guidance for Tribes** provides detailed information on how you can provide input on the questions listed in the consultation plan. Consultation will be conducted in accordance with the *EPA Policy on Consultation and Coordination with Indian Tribes* (available at www.epa.gov/tribal/consultation/consult-policy.htm). Please note that the most up-to-date information on this consultation is available on EPA's Tribal Consultation Opportunities page at <https://tcots.epa.gov/>.

^[1] The FY2016 Consolidated Appropriations act (P.L. 114-113) provided \$21,000,000 from the State and Tribal Assistance Grant (STAG) appropriation for the Multipurpose Grant (MPG) program. In FY18, Congress provided \$10,000,000 (P.L. 115-141) in MPG funds, followed by an additional \$11,000,000 in FY19 (P.L. 116-6) for states and tribes. MPG funds were not provided in the FY17 appropriation.

The official EPA contact person for this consultation and coordination process is Jeff Besougloff, Senior Advisor in the American Indian Environmental Office. Please do not hesitate to contact Mr. Besougloff at besougloff.jeff@epa.gov or at (202) 564-0292 should you have any questions regarding this action, or if you would like to request alternate arrangements to the process outlined in the consultation plan.

I look forward to hearing from you on this important matter.

Sincerely,

/s/

Felicia Wright, Acting Director,
American Indian Environmental Office

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Consultation Plan on the Multipurpose Grant Guidance for Tribes

This Consultation Plan provides background information, specific questions that define the scope of this consultation effort, EPA's schedule for receiving input, and a point-of-contact for you and your representatives. EPA's overall timeline for this consultation and coordination period is **Monday, June 17 – Friday, July 12, 2019**.

Consultation Questions

AIEO is specifically interested in your feedback in the following areas:

- EPA is using the treatment in a similar manner to a state (TAS) statutory provisions to identify tribes with the legal authority to implement federal environmental programs. Are there other listing(s) EPA should use to identify tribes for this grant program?
- The draft guidance does not distinguish between types of regulatory programs that have been delegated. Should considerations be made for the type of TAS program being implemented with some getting greater consideration?
- Should tribes with regulatory TAS that have an *enforcement component* be considered for a higher level of funding in consideration of the additional activities needed to implement an enforcement program?
- Should a tribe be required to receive funding through a new or existing performance partnership (PPG)? The draft guidance currently allows standalone MPG grants. What other grant implementation process would you recommend?
- This grant program is projected to funding awards by November 1st, 2019. How will this award cycle impact your execution of this grant?

Consultation and Coordination Timeline

Tribal governments may submit written comments through July 12, 2019. AIEO requests that tribes consider the consultation questions in their responses, in addition to any other feedback. Tribes may submit written comments via email to besougloff.jeff@epa.gov, or to the following address:

Jeff Besougloff, Senior Advisor
American Indian Environmental Office (MC 2690-M)
US Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, DC 20460

OITA has also scheduled several opportunities for tribes to provide verbal comments during this consultation and coordination process. The table below outlines opportunities for tribes to receive information, ask questions and provide verbal comments on this action. All consultation information is also available on EPA's tribal portal website: <https://tcots.epa.gov>.

Consultation & Coordination Activity	Date
CONSULTATION & COORDINATION PROCESS BEGINS - Consultation notification letter mailed & email announcements sent	Mon, June 17, 2019
1 st National Tribal Consultation Conference Call - Provides tribes with an opportunity to ask questions and provide comments Conference call line: (866) 299-3188	Tues, June 25, 2019 04:00 PM – 05:30 PM (ET)

Conference call code: 2025644013#	
2 nd National Tribal Consultation Conference Call - Provides tribes with an opportunity to ask questions and provide comments Conference call line: (866) 299-3188 Conference call code: 2025644013#	Thurs, June 27, 2019 04:00 PM – 05:30 PM (ET)
Consultation Process Ends; Tribal Comments Due	Fri, July 12 th , 2019
Official Agency Point-of-Contact: Jeff Besougloff, Senior Advisor American Indian Environmental Office (MC 2690-M) US Environmental Protection Agency 1200 Pennsylvania Avenue, NW Washington, DC 20460 Phone: 202-564-0292 Email: Besougloff.jeff@epa.gov	

We invite you and your designated consultation representative(s) to participate in one or more of the National Tribal Consultation Conference Call & Webinar events, to submit questions and comments online via EPA's Tribal Portal website (<https://tcots.epa.gov/>), to submit written comments via letter or email, or to directly contact our official Agency point of contact for the Multipurpose Grant Guidance for Tribes (contact information above).

U.S. Environmental Protection Agency DRAFT -- Multipurpose Grant Guidance for Tribes

SUMMARY

The U.S. Environmental Protection Agency is issuing multipurpose State and Tribal Assistance Grants (STAG) to federally recognized Indian tribes (tribes) who are co-regulator partners. Co-regulator partners are tribes delegated federal regulatory authority through treatment in a similar manner to a state (TAS) provisions found in federal environmental statutes to operate environmental regulatory programs. Funding is not available for grant-eligibility only TAS approvals. EPA is awarding **\$3,062,100** to tribes to be added to an existing or new Performance Partnership Grant (PPG) as described in this Guidance or as a standalone grant. This Guidance provides information on: eligibility, use of funding, grant mechanisms, processes for awarding funding, the allocation methodology used for distribution of funding, timelines, and terms for reporting under these grants.

This Guidance is for federally recognized tribes. Guidance for state and territorial agencies is issued separately.

BACKGROUND

The 2018 Consolidated Appropriations (Public Law 115-141) Act provides \$10,000,000 (\$9,772,000 after rescission) from the STAG appropriation for the Multipurpose Grant (MPG) program, following on \$21 million provided by Congress in the agency's FY 2016 appropriation.

In FY19, Congress provided an additional \$11,000,000 (\$10,642,000 after rescission) in STAG for the MPG program. In accordance with Congressional intent, EPA will issue FY18 & FY19 multipurpose funds together, to supplement STAG-funded Continuing Environmental Programs (CEPs) that fund implementation activity by states and tribes (see "Eligible Activities" section below). Because these programs support the foundational, programmatic work of environmental programs, recipients have flexibility to direct funds to priority implementation areas.

EPA has created an after rescission 15% tribal set-aside amount. Under this Guidance, the amount available for award is \$3,062,100.

AUTHORITY

This grant funding is authorized by the 2018 Consolidated Appropriations Act (P.L. 115-141) and the 2019 Consolidated Appropriations Act (P.L. 116-6).

ELIGIBLE RECIPIENTS

EPA is making the tribal portion of this funding available to federally-recognized tribes that have received treatment in a similar manner to a state (TAS) regulatory program status¹ (see Table 1 below for the number of tribes per regulatory program delegation). The list of tribes with “TAS Approvals to Operate Regulatory Programs and Perform Administrative Functions” is at:

<https://www.epa.gov/tribal/tribes-approved-treatment-state-tas>. *Important Note:* MPG eligible tribes are those listed in the first (“Regulatory Programs”) and second (“Regulatory Programs with an Enforcement Component”) columns. Those tribes listed only in the third column (“Administrative Functions”) are not MPG eligible.

Table 1: TAS Approvals to Operate Regulatory Programs

Regulatory Program	Number of Authorized Programs (as of 5/01/19)
CAA § 110 - <u>Tribal Implementation Plan (TIP)</u>	6
CAA § 111 - <u>New Source Performance Standards (NSPS)</u>	1
CAA § 112 - <u>National Emissions Standards for Hazardous Air Pollutants (NESHAP)</u>	1
CAA Title V - <u>Operating Permit Program</u>	4
CWA §§ 303(c) / 401 - <u>Water Quality Standards (WQS) Program</u>	61
SDWA § 1413 - <u>Public Water System Supervision (PWSS) Program</u>	1
SDWA § 1425 - <u>Underground Injection Control (UIC) Program, Class II Wells</u>	2
TSCA §§ 402, 404, 406 - <u>Lead Abatement and/or Renovating, Repair, and Painting (RRP) Program</u>	4
Total	80 (represents 68 tribes)

¹ For more detailed information about tribes with EPA approval to administer regulatory programs, see <https://www.epa.gov/tribal/tribes-approved-treatment-state-tas>.

ELIGIBLE ACTIVITIES

MPG funds are to be used to support TAS-delegated program implementation activities performed by a tribe pursuant to the authority delegated to that tribe. Examples of eligible implementation activities under these programs include planning, development, operation, research, investigations, experiments, monitoring, assessment, training, surveys, inspections, compliance assistance, enforcement, process improvement, education and outreach, technical support, and maintenance found within the environmental programs listed below. Activities may also include joint efforts between the recipient and EPA, such as streamlining and other E-Enterprise projects.

Examples of current TAS-delegated federal funding programs to tribes are listed below and may be of assistance in determining eligible implementation activities:

1. Air Pollution Control (CAA §105)
2. Water Pollution Control (CWA §106)
3. Public Water System Supervision (SDWA §1443(a) and §1451(a)(3))
4. Underground Injection Control (SDWA §1443(b))
5. Lead-Based Paint Program (TSCA §404(g))

All activities for which MPG funds are used must be eligible under federal environmental statutes. Conversely, activities that are ineligible for grant funding under federal environmental statutes may not be conducted using MPG funds.

Tribes using MPG funds for any of these programs must follow the applicable statutes, regulations, policies, and guidance associated with each program.

MATCH, COST-SHARE, AND MAINTENANCE OF EFFORT REQUIREMENTS

MPG funds do not have a match, cost-share, or maintenance of effort requirement. Therefore, adding MPG funds to a PPG will not impact the PPG's existing cost-share requirement under 40 CFR 35.136.

GRANT MECHANISMS

The requirements of 2 CFR part 200 (OMB Uniform Grant Guidance)² and 2 CFR part 1500 (EPA Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards)³ apply to this grant funding.

² 2 CFR part 200 (OMB Uniform Grant Guidance) available at: https://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title02/2cfr200_main_02.tpl

³ 2 CFR part 1500 (EPA Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards) available at: <https://ecfr.io/Title-02/pt2.1.1500>

Creation and use of PPGs are an EPA priority and EPA encourages tribes to take full advantage of the reduced administrative burden and maximum flexibility offered by accepting MPG funds into PPGs.⁴ The following funding vehicles are available for MPG funds:

- Tribes that have an **existing PPG** may add MPG funding to the PPG through an incremental or supplemental grant amendment.
- Tribes **nearing the end of their existing PPG, or negotiating a new PPG**, may include MPG funding in a new PPG award.
- Tribes may combine MPG funds with one or more eligible standalone grant(s) into a **new PPG**.
- Tribes may receive funding as a **standalone award**.

Further, as required by EPA's Environmental Results Order ([EPA Order 5700.7A1](#)), workplans must link the MPG activities to EPA's strategic goals and objectives, and include outcomes and outputs. The Regional POCs (listed below) may also assist with linking workplan activities to the Agency's FY18-22 Strategic Plan.⁵

FUNDING ALLOCATION

From the total of \$20,414,000 (post-rescission), EPA calculated a tribal set-aside amount of \$3,062,100 by dividing the total amount of FY17 categorical grant funding available to states, territories and tribes for PPG-eligible programs by the portion of FY17 categorical grant funding available to tribes (i.e., the tribal set-aside levels for each categorical grant program, plus the General Assistance Program).

From the tribal set-aside, EPA calculated regional allocations by dividing the total set-aside amount by the number of delegated tribal regulatory programs (80). That number of delegated tribal regulatory programs was then multiplied by the number of programs in each EPA Region to generate the allocation to each region for the generation of individual tribal awards. If the number of delegated programs increases before the regional allocation is made, EPA will use the most current number to ensure all eligible tribes are included in the eligibility pool.

TIMELINE

- **June 17-July 12, 2019:** Tribal Consultation period on proposed MPG Grant Guidance for Tribes. Consultation information on EPA's Tribal Consultation Opportunities Tracking System (TCOTS) at: <https://tcots.epa.gov/apex/tcotspub/f?p=106:1:15475041765421::::>
- **July 29, 2019:** MPG Guidance for Tribes finalized
- **August 1, 2019:** EPA sends a letter (via email) to eligible tribes, informing them of available funding, and requesting a response to accept or decline the funds.
- **September 1, 2019:** Tribes notify EPA of their intent to accept or decline MPG funds. EPA begins working with the individual tribal applicants.

⁴ For more information about the flexibilities offered through PPGs, see: <https://www.epa.gov/ocir/national-environmental-performance-partnership-system-nepps>

⁵ EPA FY2018-2022 Strategic Plan: <https://www.epa.gov/planandbudget/fy-2018-2022-epa-strategic-plan>

- **November 1, 2019:** Tribes submit application through [grants.gov](https://www.epa.gov/grants)
- **January 15, 2020:** EPA awards grants.

TERMS & CONDITIONS

There are no new terms and conditions for multipurpose grant funding. The typical grant terms and conditions associated with awards to the CEPs and PPGs apply.

PERFORMANCE TRACKING

MPG funds must be managed in accordance with existing Federal and EPA-specific grant regulations and policies, including but not limited to: 40 CFR Part 35 Subparts A and B, 2 CFR Part 200, 2 CFR Part 1500, the Environmental Results Order, GPI 15-01 Performance Partnership Grants for States, GPI 11-03 State Grant Workplans and Progress Reports, and GPI 12-06 Timely Award, Obligation, and Expenditure of EPA Grant Funds.

PROJECT PERIOD

Existing EPA grant policies limit project periods for CEPs and PPGs to no more than five years. There is no mandated project period specific to MPG funds; EPA asks that tribes demonstrate the projects they've identified in their work plans are "of most value," as Congress directs, by drawing down the funds within two years. Use of the recipients' EPA-Tribal Environmental Agreement (ETEP) may be helpful in determining implementation activity priorities for MPG funds.

EPA's GPI 12-06, "Timely Obligation, Award and Expenditure of EPA Grant Funds"⁶ applies to this funding.

REGIONAL POINTS OF CONTACT

Tribes should direct questions about the FY18-19 MPG program to their Regional Point of Contact:

EPA Region	Regional POC	Phone Number	Email
R1	Mike Stover, Indian Program Manager	617-918-1123	Stover.mike@epa.gov
R2	Grant Jonathan, Regional Indian Coordinator	212-637-3843	Grant.jonathan@epa.gov
R4	Pam Swingle, Acting Regional Tribal Coordinator	404-562-8482	Swingle.pam@epa.gov
R5	Alan Walts, Director Multimedia Programs Office	312-353-8894	Walts.alan@epa.gov

⁶ GPI 12-06: Timely Obligation, Award and Expenditure of EPA Grant Funds: <https://www.epa.gov/grants/grants-policy-issuance-12-06-timely-obligation-award-and-expenditure-epa-grant-funds>

DRAFT – Multipurpose Grant Guidance for Tribes –
Tribal Consultation Version (June 17- July 12, 2019)

R6	Randy Gee, Tribal Team Leader	214-665-8355	Gee.randy@epa.gov
R8	Paul Felz, Acting Chief, Tribal Affairs Branch	303-312-6270	Felz.paul@epa.gov
R9	Jeremy Bauer, Acting Manager, Tribal Branch	415-972-3054	Bauer.jeremy@epa.gov
R10	Stacy Murphy, Manager, Tribal Trust and Assistance Branch	206-553-2106	Murphy.stacy@epa.gov

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**Federally Recognized Tribes Eligible to Receive EPA
Multipurpose Grants
(List current as of June 1, 2019)**

Assiniboine & Sioux Tribes of the Fort Peck Indian Reservation, MT
Bad River Band of Lake Superior Tribe of Chippewa Indians
Big Pine Paiute Tribe of the Owens Valley
Bishop Paiute Tribe
Blackfeet Tribe of the Blackfeet Indian Reservation of MT
Cherokee Nation
Coeur D'Alene Tribe
Confederated Salish & Kootenai Tribes of the Flathead Reservation
Confederated Tribes of the Chehalis Reservation
Confederated Tribes of the Colville Reservation
Confederated Tribes of the Goshute Reservation, Nevada and Utah
Confederated Tribes of the Umatilla Indian Reservation
Confederated Tribes of the Warm Springs Reservation of Oregon
Dry Creek Rancheria Band of Pomo Indians, California
Eastern Band of Cherokee Indians
Gila River Indian Community of the Gila River Indian Reservation,
Arizona
Havasupai Tribe of the Havasupai Reservation, Arizona
Hoopa Valley Tribe, California
Hopi Tribe of Arizona
Hualapai Indian Tribe of the Hualapai Indian Reservation, Arizona
Kalispel Indian Community of the Kalispel Reservation
Kletsel Dehe Band of Wintun Indians
Lac du Flambeau Band of Lake Superior Chippewa Indians of the
Lac du Flambeau Reservation of Wisconsin
Lower Sioux Indian Community in the State of Minnesota
Lummi Tribe of the Lummi Reservation
Makah Indian Tribe of the Makah Indian Reservation
Mashantucket Pequot Indian Tribe
Miccosukee Tribe of Indians
Minnesota Chippewa Tribe - Bois Forte Band (Nett Lake)
Minnesota Chippewa Tribe - Fond du Lac Band
Minnesota Chippewa Tribe - Grand Portage Band
Minnesota Chippewa Tribe - Leech Lake Band
Mohegan Tribe of Indians of Connecticut
Navajo Nation, Arizona, New Mexico & Utah
Northern Cheyenne Tribe of the Northern Cheyenne Indian
Reservation, Montana

DRAFT – Multipurpose Grant Guidance for Tribes –
Tribal Consultation Version (June 17- July 12, 2019)

Ohkay Owingeh, New Mexico
Pala Band of Mission Indians
Pawnee Nation of Oklahoma
Pechanga Band of Luiseno Mission Indians of the Pechanga
Reservation, California
Port Gamble S'Klallam Tribe
Pueblo of Acoma, New Mexico
Pueblo of Isleta, New Mexico
Pueblo of Laguna, New Mexico
Pueblo of Nambe, New Mexico
Pueblo of Picuris, New Mexico
Pueblo of Pojoaque, New Mexico
Pueblo of Sandia, New Mexico
Pueblo of Santa Ana, New Mexico
Pueblo of Santa Clara, New Mexico
Pueblo of Taos, New Mexico
Pueblo of Tesuque, New Mexico
Puyallup Tribe of the Puyallup Reservation
Pyramid Lake Paiute Tribe of the Pyramid Lake Reservation,
Nevada
Quinault Indian Nation
Rincon Band of Luiseno Mission Indians of the Rincon Reservation,
California
Saint Regis Mohawk Tribe
Seminole Tribe of Florida
Shoshone-Bannock Tribes of the Fort Hall Reservation
Sokaogon Chippewa Community, Wisconsin
Southern Ute Indian Tribe
Spokane Tribe of the Spokane Reservation
Swinomish Indian Tribal Community
Tulalip Tribes of Washington
Twenty-Nine Palms Band of Mission Indians of California
Upper Sioux Community, Minnesota
Ute Mountain Ute Tribe
Walker River Paiute Tribe of the Walker River Reservation, Nevada
White Mountain Apache Tribe of the Fort Apache Reservation,
Arizona